

(4) Agency inspections do not create or imply any duty or obligation of the Agency to the applicant or borrower.

(f) *Warranty and lien waivers.* The applicant or borrower must obtain and submit all lien waivers on any construction before the Agency will issue final payment.

(g) *Surety.* The Agency will require surety to guarantee both payment and performance for construction contracts as necessary to protect its financial interests.

(h) *Changing the planned development.* An applicant or borrower must request, in writing, Agency approval for any change to a planned development. The Agency will approve a change if all of the following are met:

- (1) It will not reduce the value of the Agency's security;
- (2) It will not adversely affect the soundness of the farming operation;
- (3) It complies with all applicable laws and regulations;
- (4) It is for an authorized loan purpose;
- (5) It is within the scope of the original loan proposal;
- (6) If required, documentation that sufficient funding for the full amount of the planned development is approved and available;
- (7) If required, surety to cover the full revised development amount has been provided; and
- (8) The modification is certified in accordance with paragraph (d) (6) of this section.

§§ 761.11–761.50 [Reserved]

Subpart B—Supervised Bank Accounts

§ 761.51 Establishing a supervised bank account.

(a) Supervised bank accounts will be used to:

- (1) Assure correct use of funds planned for capital purchases or debt refinancing and perfection of the Agency's security interest in the assets purchased or refinanced when electronic funds transfer or treasury check processes are not practicable;
- (2) Protect the Agency's security interest in insurance indemnities or

other loss compensation resulting from loss or damage to loan security; or

(3) Assist borrowers with limited financial skills with cash management, subject to the following conditions:

- (i) Use of a supervised bank for this purpose will be temporary and infrequent;
- (ii) The need for a supervised bank account in this situation will be determined on a case-by-case basis; and
- (iii) The borrower agrees to the use of a supervised bank account for this purpose by executing the deposit agreement.

(b) The borrower may select the financial institution in which the account will be established, provided the institution is Federally insured. If the borrower does not select an institution, the Agency will choose one.

(c) Only one supervised bank account will be established for any borrower.

(d) If both spouses sign an FLP note and security agreement, the supervised bank account will be established as a joint tenancy account with right of survivorship from which either borrower can withdraw funds.

(e) If the funds to be deposited into the account cause the balance to exceed the maximum amount insurable by the Federal Government, the financial institution must agree to pledge acceptable collateral with the Federal Reserve Bank for the excess over the insured amount, before the deposit is made.

(1) If the financial institution is not a member of the Federal Reserve System, the institution must pledge acceptable collateral with a correspondent bank that is a member of the Federal Reserve System. The correspondent bank must inform the Federal Reserve Bank that it is holding securities pledged for the supervised bank account in accordance with 31 CFR part 202 (Treasury Circular 176).

(2) When the balance in the account has been reduced, the financial institution may request a release of part or all of the collateral, as applicable, from the Agency.

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